

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leanne Fornelli	Team: Team # 1	CCRB Case #: 201214716	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/30/2012 6:15 AM	Location of Incident: § 87(2)(b)	Precinct: 90	18 Mo. SOL 5/30/2014	EO SOL 5/30/2014	
Date/Time CV Reported Fri, 11/30/2012 9:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/05/2012 2:46 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Jason Cohen	01750	923429	NARCBBN
2. CPT Fernando Guimaraes	00000	915848	NARCBBN
3. DT3 Michael Petitto	02233	931887	NARCBBN
4. Officers			NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Philip Aversano	00000	905409	NARCBBN
2. DT3 Christopher Zeffiro	01472	937785	NARCBBN
3. DT3 Victor Mauro	02361	935704	NARCBBN
4. DT3 Thomas Lodico	00455	938868	NARCBBN
5. DT3 Todd Cracco	02359	928121	NARCBBN
6. DT3 Adrian Chatman	06828	932453	NARCBBN
7. DT3 Michelle Martinez	07087	935258	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Jason Cohen	Abuse: DT Jason Cohen entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 Michael Petitto	Force: DT Michael Petitto used physical force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
C.CPT Fernando Guimaraes	Force: CPT Fernando Guimaraes used physical force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
D. Officers	Force: Officers used physical force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)

### Case Summary

On November 30, 2012, § 87(2)(b) filed this complaint via telephone with the Internal Affairs Bureau (IAB) on behalf of § 87(2)(b)'s parents, § 87(2)(b) and § 87(2)(b) § 87(2)(b) is § 87(2)(b)'s boyfriend and did not witness this incident. On December 5, 2012, IAB forwarded the complaint to the Civilian Complaint Review Board (CCRB) under log number § 87(2)(b) (encl. 3a-3b).

On November 30, 2012, officers from Narcotics Borough Brooklyn North executed a search warrant at § 87(2)(b) in Brooklyn. The following allegations resulted from this incident:

**Allegation A: Abuse of Authority: DT Jason Cohen entered and searched § 87(2)(b) in Brooklyn.**

§ 87(2)(g)

**Allegation B: Force: DT Michael Petitto used physical force against § 87(2)(b)**

**Allegation C: Force: CPT Fernando Guimaraes used physical force against § 87(2)(b)**

§ 87(2)(g)

**Allegation D: Force: Officers used physical force against § 87(2)(b)**

§ 87(2)(g)

### Results of Investigation

#### Civilian Statements

**Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-year-old white man who stands 6'2" tall, weighs 187 pounds, and has blonde hair and blue eyes. At the time of the interview, § 87(2)(b) was retired. § 87(2)(b) is a Polish speaker.

#### Statement to Medical Personnel

On § 87(2)(b) at approximately § 87(2)(b) § 87(2)(b) made the following statement to medical personnel at § 87(2)(b) that was translated by § 87(2)(b) (encl. 17a-17p). § 87(2)(b) was assaulted that morning by members of the NYPD, who punched him in the face before handcuffing him. § 87(2)(b)'s chief complaints were a headache, backache and pain to both hands.

#### Photographs

On February 15, 2013, the civil attorney for the § 87(2)(b) family, § 87(2)(b) supplied the following photographs via the United States Postal Service that were taken by § 87(2)(b) on an unknown date in 2012 subsequent to the incident.

Photographs 5 and 6 (encl. 9c) show § 87(2)(b) with bruising to his left cheek and under his left eye. Photographs 7 and 8 (encl. 9d) show a closer view of § 87(2)(b)'s bruising to his left cheek and under his left eye. Photograph 9 (encl. 9e) shows lacerations to § 87(2)(b)'s left arm.

### CCRB Testimony

On February 1, 2013, § 87(2)(b) was interviewed at the CCRB and his testimony was translated from Polish via an independent translator (encl. 5a-5f). § 87(2)(g)

On November 30, 2012, at approximately 6:15 a.m., § 87(2)(b) was half asleep on a pull-out couch, the back of which faces the front door of § 87(2)(b) in Brooklyn. § 87(2)(b) his wife § 87(2)(b) § 87(2)(b) his daughter § 87(2)(b) and his grandson § 87(2)(b) live at the apartment and were the only people home.

§ 87(2)(b) thought he heard knocking, but was unsure where it was coming from, as the second floor hallway creates echoes. § 87(2)(b) was then awoken fully by a noise that he thought was a bomb, but was the front door of his apartment being blown open. The door remained on its hinges, but after the incident, § 87(2)(b) observed damage to the lock and knob. § 87(2)(b) heard screaming and commotion that included eight to ten officers, identified via investigation as CPT Fernando Guimaraes, LT Philip Aversano, DT Jason Cohen, DT Michael Pettito, DT Christopher Zeffiro, DT Victor Mauro, DT Adrian Chatman, DT Thomas Lodico and DT Todd Cracco of Narcotics Borough Brooklyn North, rushing through the door.

Several of the officers that had masks over their faces, exactly how many and any of their physical descriptions were not recalled, but two of whom were identified via investigation as CPT Guimaraes and DT Pettito, grabbed § 87(2)(b) from where he was laying and threw him on the floor. § 87(2)(b) did not recall where he was grabbed on his body or how he was thrown on the floor. Shortly after § 87(2)(b) landed on the floor, one handcuff was placed on his right wrist while he was laying on the floor on his right side. One of the officers (no physical description recalled) struck § 87(2)(b) at least three times in the left side of his face with his fist. After this, § 87(2)(b) did not remember what happened until the officers lifted him so he was seated on the pull-out couch. An officer put the other handcuff on § 87(2)(b)'s left wrist so that he had his hands bound in front of him. § 87(2)(b) began to look around to ensure that his family was still alive.

§ 87(2)(b) saw that § 87(2)(b) § 87(2)(b) and § 87(2)(b) were already handcuffed. § 87(2)(b) § 87(2)(b) was sitting on the long couch in the leftmost seat (if facing the sofa). § 87(2)(b) was seated in one of the chairs around the kitchen table in the niche next to the living room. § 87(2)(b) was not handcuffed and free to walk around. Shortly after everyone was handcuffed, all but three officers, identified via investigation as CPT Guimaraes (described as a tall, dark-skinned male), DT Cohen (described as a male, short, balding with some blonde hair) and DT Chatman (described as a dark-skinned male, tall, average body build) remained.

The officers then proceeded to search the apartment, utilizing a dog. Everyone's handcuffs were then removed and the officers left. Later that day, § 87(2)(b) called an ambulance for § 87(2)(b) who was taken to § 87(2)(b) for bruising to the left side of his face and under his eye, and bruising and a cut on his left wrist from the handcuffs.

**Victim:** § 87(2)(b)

- § 87(2)(b) § 87(2)(b) is a § 87(2)(b)-year-old white woman who stands 5'7" tall, weighs 132 pounds, and has blonde hair and gray eyes. § 87(2)(b)  
§ 87(2)(b) § 87(2)(b) is a Polish speaker.

**CCRB Testimony**

On February 1, 2013, § 87(2)(b) § 87(2)(b) was interviewed at the CCRB and her testimony was translated from Polish by an independent translator (encl. 6a-6f). § 87(2)(g)

On November 30, 2012, officers damaged § 87(2)(b) § 87(2)(b)'s door and entered her apartment. § 87(2)(b) § 87(2)(b) who was still wearing her nightgown, was immediately handcuffed and placed in the head chair on the right of the kitchen table in the niche.

At least five officers who were wearing masks that covered their faces (no physical description could be provided), two of whom were identified via investigation as CPT Guimaraes and DT Pettito, surrounded § 87(2)(b) who was sleeping on the pull-out couch, and threw him on the floor, but § 87(2)(b) § 87(2)(b) could not recall how this was done and could not see what was happening on the floor. After the incident ended, § 87(2)(b) § 87(2)(b) told § 87(2)(b) § 87(2)(b) that he thought somebody was trying to kill him because they hit him two or three times, but she did not witness this. § 87(2)(b) § 87(2)(b) was handcuffed.

§ 87(2)(b) § 87(2)(b)'s daughter, § 87(2)(b) § 87(2)(b) came into the living room followed by § 87(2)(b) § 87(2)(b)'s grandson, § 87(2)(b) § 87(2)(b). § 87(2)(b) § 87(2)(b) could not recall if they were present when the officers forced the door open, but they were in the living room when the officers approached § 87(2)(b) § 87(2)(b). § 87(2)(b) § 87(2)(b) noticed that § 87(2)(b) § 87(2)(b) was on the floor being handcuffed, but she did not know how she got to the floor and could not recall where § 87(2)(b) § 87(2)(b) was at this time.

All but four to five officers left the apartment and three of the remaining officers were identified via investigation as CPT Guimaraes (described as a white male), DT Cohen (described as a white male) and DT Michelle Martinez of Narcotics Brooklyn Borough North (described as a female, approximately 5'7" tall, dark brown hair). § 87(2)(b) § 87(2)(b) did not recall any descriptive information about the other two officers, PO4 and PO5. While the officers were searching the apartment, § 87(2)(b) § 87(2)(b) received permission from them to get § 87(2)(b) § 87(2)(b) dressed and take him to school, but she did not recall if the officers were still present when she and § 87(2)(b) § 87(2)(b) left the apartment.

**Witness:** § 87(2)(b)

- § 87(2)(b) § 87(2)(b) is a § 87(2)(b)-year-old white woman who stands 5'1" tall, weighs 155 pounds, and has dark blonde hair and blue-green eyes. § 87(2)(b)

**CCRB Testimony**

On February 1, 2013, § 87(2)(b) § 87(2)(b) was interviewed at the CCRB (encl. 7a-7f). § 87(2)(g)

On November 30, 2012, at approximately 6:15 a.m., § 87(2)(b) and her son, § 87(2)(b) were sleeping in their shared bedroom at § 87(2)(b) in Brooklyn, that is rented under the name of her mother, § 87(2)(b). § 87(2)(b) awoke because she heard § 87(2)(b) in the living room screaming, “Oh my God! Oh my God! Oh my God!” § 87(2)(b) went to the living room and § 87(2)(b) followed behind her.

Eight to ten possibly uniformed officers had entered the apartment and § 87(2)(b) was already handcuffed. § 87(2)(a) Gen.Mun. §50-H(3) Four or five officers, three of whom were identified via investigation as CPT Guimaraes (described as a white or Hispanic male, 5’9” tall, straight brown hair, in his 40s), DT Cohen (described as a white or Hispanic male, 5’9” to 5’10” tall, average body build, very short hair, 30 to 40 years old) and DT Pettito (described as a male) approached § 87(2)(b) on the pull-out couch (the other two officers, PO4 and PO5, were described as males). When § 87(2)(b) was on the floor, one of the officers (who not recalled) struck § 87(2)(b) three or four times. § 87(2)(a) Gen.Mun. §50-H(3)

DT Cohen told § 87(2)(b) to get on the floor. § 87(2)(b) laid face-down on the floor and DT Cohen handcuffed her and allowed her to stand up. DT Cohen took § 87(2)(b) into the bedroom and asked her questions about drugs in the apartment. The apartment was then searched. CPT Guimaraes took the handcuffs off of § 87(2)(b) and asked her if she had any enemies and she said that she did not. The officers then left the location.

**Witness:** § 87(2)(b)

- § 87(2)(b) is an § 87(2)(b)-year-old white male who stands 5’5”, weighs 100 pounds, and has brown hair and brown eyes. § 87(2)(b) § 87(2)(b)

**CCRB Testimony**

On February 1, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 8a-8e). § 87(2)(g)

§ 87(2)(b) was awoken by three loud bangs coming from the front door in the living room before he heard his grandmother, § 87(2)(b) screaming. After he and his mother, § 87(2)(b) went to the living room, three to four officers (one described as a black male, no description recalled for the others), two of whom were identified via investigation as CPT Guimaraes and DT Pettito, pulled § 87(2)(b)s grandfather, § 87(2)(b) off his sofa bed and surrounded him, at which time § 87(2)(b) could not see what was happening to § 87(2)(b)

An officer identified as DT Cohen (no description recalled), who had “SWAT” written on his back, told § 87(2)(b) to get on the floor, where he handcuffed her. An officer identified as DT Martinez (described as a white female, medium height, chubby body build, about 30 years old, wearing a uniform with a jacket and gloves) took § 87(2)(b) by his right arm and sat him down on the long couch in the living room in the furthestmost right seat. DT Martinez spoke to § 87(2)(b) about drugs being in the apartment. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(g)

§ 87(2)(g) The officers searched the apartment and then left the location.

### **NYPD Statements:**

#### **Subject Officer: DT JASON COHEN**

- *DT Cohen is a § 87(2)(b)-year-old white male who stands 5'9" tall, weighs 215 pounds, and is bald with hazel eyes.*
- *On November 30, 2012, DT Cohen was on duty from 4:00a.m. until 12:33 p.m., was the case officer of a search warrant, was working with LT Aversano and other members of the field team, was dressed in plainclothes and was using an unmarked vehicle (description and number not recalled).*

### **Memo Book**

DT Cohen made the following entries in his memo book (encl. 13a-13c). At 5:30 a.m., a TAC meeting was held for a search warrant to be executed at § 87(2)(b) for which he was the case officer. At 5:45 a.m., DT Cohen was en route to § 87(2)(b). At 6:15 a.m., a search warrant was executed at the location. Three people and one child § 87(2)(b) were present. The old man, § 87(2)(b) resisted arrest. No contraband was recovered, three arrests were voided for § 87(2)(b) and § 87(2)(b). The subject, § 87(2)(b) was debriefed with negative results. RJK Security secured the door.

### **Arrest Reports**

§ 87(2)(a) 160.50

### **CCRB Testimony**

On May 17, 2013, DT Cohen was interviewed at the CCRB (encl. 13d-13g). § 87(2)(e) § 87(2)(f)

After an investigation, DT Cohen obtained a search warrant for § 87(2)(b)'s apartment.

On November 30, 2012, a TAC meeting was held for the search warrant. It was not established during this TAC meeting which officers would apprehend which civilians (as they did not know who was inside), except that DT Cohen would apprehend § 87(2)(b) in the bedroom, where he knew she would be because of a previously acquired layout of the apartment.

DT Cohen, DT Petitto, DT Zeffiro and DT Mauro were wearing helmets and raid jackets that resembled heavy vests, as is protocol for the execution of search warrants to protect from ammunition or weapons. DT Cohen did not recall if any other officer was wearing a helmet. No officer was wearing a mask that completely covered their faces.

At 6:15 a.m., DT Cohen arrived at the incident location. DT Cohen was holding a large bunker shield and was the first person inside the apartment. DT Cohen entered the apartment because he had a valid search warrant authorizing him to do so. The officers verbally announced themselves as officers several times by saying loudly, "Police search warrant. Police search warrant. Let me see your hands."

DT Cohen reviewed a copy of the TAC plan (encl. 20a) and provided the following information. LT Berger was not present because he was working on another search warrant and was replaced by LT Aversano as Search Supervisor. LT Aversano entered the apartment at some point after DT Cohen did. CPT Guimaraes, identified as hallway security on the TAC plan, also entered the apartment, but he, LT Aversano, DT Goodwin (Rear security on the TAC plan) and other officers (DT Cohen did not recall who) left shortly after the entry as they had another search warrant to execute. DT Cohen did not know who entered after the Bunker officers and stated that those who did enter the apartment would most likely branch out into the apartment. DT Lodico and DT Cracco, the officers who opened the door, allowed the bunker officers to enter after this was done, but DT Cohen did not recall if they entered the apartment. DT Martinez did enter the apartment at some point after DT Cohen. DT Nelson (Rear Security on the TAC plan) also entered the apartment, but after the initial entry.

DT Cohen observed two civilians, later identified as § 87(2)(b) and § 87(2)(b) § 87(2)(b) sleeping on separate sofa beds in the living room. DT Cohen did not focus on them, because his goal was to go to the bedroom that belonged to § 87(2)(b) § 87(2)(b). DT Cohen did not have any physical interaction with § 87(2)(b) and did not see any other officer have any physical interaction with § 87(2)(b). DT Cohen never needed to use force on any of the civilians at any time during this incident and never saw any other officer do so. DT Cohen did not punch § 87(2)(b) in the face and did not see any other officer do this. DT Cohen did not injure § 87(2)(b) in any way and did not see any other officer do this.

The other members of the field team apprehended the other individuals, but DT Cohen did not see this occur as he went immediately to the bedroom. DT Cohen used the small hallway on the right to access the bedroom, where § 87(2)(b) was already awake and standing up. DT Cohen said, "Police search warrant, let me see your hands." § 87(2)(b) was apprehended and placed in handcuffs by DT Petitto. § 87(2)(b) was the only person in the bedroom. § 87(2)(b) was handcuffed without incident or struggle. DT Cohen spoke to her in the bedroom and explained that she was the subject of a search warrant. § 87(2)(b) was calm and complacent, as if she expected the officers. DT Cohen told § 87(2)(b) that if contraband was found inside the apartment, she would be arrested. § 87(2)(b) told DT Cohen that she did not know what contraband DT Cohen was referring to and said he would not find anything at the apartment. DT Cohen did not recall how long he was in the bedroom speaking to § 87(2)(b).

DT Cohen escorted § 87(2)(b) into the living room, where § 87(2)(b) and § 87(2)(b) § 87(2)(b) were already handcuffed. DT Cohen added that he wanted to keep them all together so the officers could watch them. § 87(2)(b) a child, was also present but was never apprehended, and DT Cohen did not recall where he was initially.

DT Cohen did not notice anything out of the ordinary about § 87(2)(b) when he entered the living room. § 87(2)(b) and § 87(2)(b) § 87(2)(b) appeared to be calm and complacent. DT Cohen did not observe any injuries on either of their persons. Some members of the field team told DT Cohen that § 87(2)(b) kept his hands near him after being told to place his hands behind his back and was therefore considered to be resisting arrest, but DT Cohen did not witness this. The officers did not say anything else about what they had to do to handcuff § 87(2)(b) and did not say if they had to use force. DT Cohen heard of no injury sustained by § 87(2)(b) during the incident.

DT Cohen began to conduct his search of the apartment for marijuana, as he had a valid search warrant to do so. This search yielded negative results. DT Cohen did not recall when § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) were released from handcuffs, but § 87(2)(b) was released at the end of the search.

DT Cohen explained to § 87(2)(b) again why officers were there to ensure that she understood. § 87(2)(b) repeated that there was nothing inside the apartment. DT Cohen was at the location for approximately one hour and forty-five minutes. The arrest reports generated for § 87(2)(b) and § 87(2)(b) were voided, as nothing had been found.

DT Cohen reviewed photographs number six (encl. 9c), number seven and number eight (encl. 9d) that showed bruising to § 87(2)(b)'s face and photograph number nine (encl. 9e) that showed lacerations to § 87(2)(b)'s arm. DT Cohen did not observe these injuries on § 87(2)(b)'s person on the date of the incident and did not know how he got them.

**Subject Officer: DT Michael PETITTO**

- *DT Petitto is a § 87(2)(b)-year-old white male who stands 5'7" tall, weighs 175 pounds, and has brown hair and brown eyes.*
- *On the date of the incident, DT Petitto was on duty from 5:00 a.m. until 3:33 p.m., was assigned to Bunker 1 Security for DT Cohen, was dressed in plainclothes but wearing marked NYPD tactical gear, and used an unmarked vehicle (description and number not recalled).*

**Memo Book**

DT Petitto made the following notations in his memo book (encl. 15a-15b). At 5:00 a.m., DT Petitto was assigned to a search warrant with the 90<sup>th</sup> Precinct and the 94<sup>th</sup> Precinct. At 6:30 a.m., the search warrant was executed, which had negative results.

**CCRB Testimony**

On June 5, 2013, DT Petitto was interviewed at the CCRB (encl. 15c-15f).

§ 87(2)(g)  
At 6:30 a.m., DT Petitto was the second person to enter the apartment behind DT Cohen, who was holding a bunker. DT Cohen went to the back of the apartment to secure any rooms in that area. A different officer (DT Petitto did not know who) began acting as DT Cohen's security.

When DT Petitto walked in, the lights were out, making it hard to see, but he observed two individuals identified as § 87(2)(b) (described as an elderly male) and § 87(2)(b) (described as an elderly female), who appeared to have just awoken and were standing by a couch in the living room. DT Petitto and other officers gave orders for § 87(2)(b) and § 87(2)(b) to get onto the floor and show their hands. DT Petitto quickly handcuffed § 87(2)(b) while she was in a standing position and her demeanor was frightened, but very cooperative.

As DT Petitto was handcuffing § 87(2)(b) an individual identified as § 87(2)(b) (described as a young female), who had been sleeping on the floor with blankets next to a coffee table, got up and walked toward the kitchen area. She was apprehended by another officer (DT Petitto did not recall who).

§ 87(2)(b) got up and went towards the direction that DT Cohen had gone. DT Petitto went to apprehend him and grabbed his wrist (DT Petitto did not recall which one) to place him in handcuffs. DT Petitto did not throw § 87(2)(b) to the floor while he was laying on the sofa and did not see any other officer do this. § 87(2)(b) tried to pull his hand away and a struggle ensued. DT Petitto told § 87(2)(b) to put his hands behind his back, but § 87(2)(b) continued to pull his hand towards his body. DT Petitto did not recall if § 87(2)(b) said anything. § 87(2)(b) grabbed DT Petitto's arm that was holding his other wrist and they



both began to tussle by the couch. DT Pettito moved his arm up and down in a circular motion to get § 87(2)(b) to let go of him, during which time it was possible that he unintentionally struck § 87(2)(b)'s face, but DT Pettito did not recall this happening. DT Pettito did not recall what else happened during the tussle, except that he and § 87(2)(b) were bumping into furniture. § 87(2)(b) did not strike DT Pettito, but DT Pettito did not recall if § 87(2)(b) tried to swing at him or any officer.

After a minute to a minute and a half, CPT Guimaraes came to assist DT Pettito in placing § 87(2)(b) in handcuffs. CPT Guimaraes controlled § 87(2)(b)'s arm by grabbing it, during which time § 87(2)(b) continued to try to pull his arm away. At some point, DT Pettito did not recall if it was before or after CPT Guimaraes came to assist, DT Pettito and § 87(2)(b) lost balance and fell onto the couch with DT Pettito falling first and § 87(2)(b) landing on top of him. DT Pettito did not recall on what part of his body he landed on the couch.

One of the other civilians (DT Pettito did not recall who) began speaking to § 87(2)(b) in another language and he calmed down. After approximately twenty seconds after CPT Guimaraes came to assist, DT Pettito was able to place § 87(2)(b) in handcuffs while he was in a sitting position on the couch. DT Pettito did not use any further force to place § 87(2)(b) in handcuffs and neither did any other officer. No other officer besides he and CPT Guimaraes made physical contact with § 87(2)(b) that he observed. DT Pettito did not intentionally punch § 87(2)(b) in the face or anywhere, and did not see any other officer do this. § 87(2)(b)'s demeanor remained angry (DT Pettito did not recall how this was expressed) and he spoke to § 87(2)(b) in a different language.

§ 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) were placed in handcuffs and the lights were turned on. DT Pettito did not recall if § 87(2)(b) was already in the living room by the time § 87(2)(b) was placed in handcuffs. § 87(2)(b)'s demeanor was calm. The handcuffed individuals were placed together in the living room. A secondary search was done by the other members of the field team (DT Pettito did not recall who) to ensure there was nobody else besides those handcuffed inside the apartment. DT Pettito stayed with the handcuffed individuals in the living room. During this time, DT Pettito realized that § 87(2)(b) did not speak English when an officer tried to collect his pedigree information.

DT Pettito did not observe injuries on § 87(2)(b). DT Pettito did not hear of any civilian being injured as a result of the incident and did not know of an ambulance being called. DT Pettito did not recall anyone translating for § 87(2)(b) during which time he complained of injuries and did not hear of any complaint he made after the incident ended. DT Pettito reviewed photographs number 7 and number 8 (encl. 9d) in the case file, which shows bruising to § 87(2)(b)'s face. DT Pettito said nothing occurred during the incident that could have resulted in these injuries and DT Pettito did not observe these injuries on his person at the incident location. DT Pettito reviewed photograph number 9 (encl. 9e) that shows the laceration to § 87(2)(b)'s arm, but said nothing occurred during the incident that could have caused this injury and did not observe this injury at the incident location.

After it was determined that there were no other individuals inside the apartment, CPT Guimaraes told DT Pettito to report to the next search warrant location and he did so. In total, DT Pettito was inside the apartment for approximately five to ten minutes. DT Pettito left with DT Goodwin, but did not recall who else left the apartment. DT Cohen, a second officer and a supervisor stayed behind.

**Subject Officer: CPT FERNANDO GUIMARAES**

- CPT Guimaraes is a § 87(2)(b)-year-old Hispanic male who stands 5'9" tall, weighs 170 pounds, and has black hair and brown eyes.
- On the date of the incident, CPT Guimaraes was on duty from 4:30 a.m. until 2:30 p.m., was assigned to Captain of Narcotics Brooklyn Borough North that included officers of the 90<sup>th</sup> Precinct and the 94<sup>th</sup> Precinct, was dressed in plainclothes but using an NYPD marked raid jacket, and was using a black 2011 Subaru Legacy.

**CCRB Testimony**

On June 24, 2013, CPT Guimaraes was interviewed at the CCRB (encl. 16a-16c).

§ 87(2)(g)

At 6:10 a.m., CPT Guimaraes was one of the last officers to enter the apartment. CPT Guimaraes veered to the left side. Officers kept repeating to one individual, identified as § 87(2)(b)

§ 87(2)(b) "Let me see your hands, let me see your hands."

§ 87(2)(b) was either straight ahead or just to the left on a bed in the living room. § 87(2)(b) was screaming, but did not speak English. § 87(2)(b)

§ 87(2)(b)'s demeanor appeared startled. The yelling drew CPT Guimaraes' attention to § 87(2)(b)

DT Pettito and perhaps other officers who CPT Guimaraes could not recall attempted to handcuff § 87(2)(b) by grabbing his arms. § 87(2)(b)

§ 87(2)(b) resisted by squirming and flailing his arms. CPT Guimaraes approached § 87(2)(b)

§ 87(2)(b) who was in a standing position at this point, and grabbed his arms.

§ 87(2)(b) flailed his arms, but CPT Guimaraes did not recall what he did with the rest of his body. § 87(2)(b)

§ 87(2)(b) would not put his hands behind his back and continued yelling, so the officers made the decision to front-cuff him. No further force was used on § 87(2)(b)

§ 87(2)(b) who was placed on the sofa bed after he was handcuffed. CPT Guimaraes observed no injuries on § 87(2)(b)

§ 87(2)(b) When asked if § 87(2)(b) bumped into furniture or any object during the struggle that could have caused an injury, CPT Guimaraes said that he did not see § 87(2)(b) bump into any furniture.

While CPT Guimaraes was present, § 87(2)(b) complained of no injuries that he was aware of and no officer informed him that § 87(2)(b) had been injured. CPT Guimaraes reviewed photographs number 7 and number 8 (encl. 9c) in the case file, which show bruising to § 87(2)(b)'s left cheek. CPT Guimaraes did not know how § 87(2)(b) obtained these injuries. The investigator asked CPT Guimaraes if anything happened during the incident that could have caused these specific injuries. CPT Guimaraes' representative, Mr. Charles Barbuti, stated that CPT Guimaraes answered this question when he stated that he never saw § 87(2)(b) obtain any injuries during the incident. CPT Guimaraes did not punch or strike § 87(2)(b) in the face, nor did he see any other officer do this.

**Witness Officer: DT VICTOR MAURO**

- *DT Mauro is a § 87(2)(b) -year-old white male who stands 5'6" tall, weighs 148 pounds, and has brown hair and blue eyes.*
- *On the date of the incident, DT Mauro was on duty from 5:00 a.m. until 1:33 p.m. and was assigned to Bunker Security with DT Zeffiro. DT Mauro was dressed in plainclothes, but used protective gear, such as a shield and helmet, bearing NYPD insignia. DT Mauro was using an unmarked black Mazda, number § 87(2)(b).*

**Memo Book**

DT Mauro made the following notations in his memo book (encl. 14a-14b). At 6:00 a.m., DT Mauro executed a search warrant at § 87(2)(b)

**CCRB Testimony**

On June 4, 2013, DT Mauro was interviewed at the CCRB (encl. 14c-14e). § 87(2)(g)

Upon entering the apartment, DT Mauro cleared the rooms to the right to ensure that nobody was inside, but did not recall how many rooms there were. DT Cohen and DT Pettito went to the living room, where DT Mauro saw that individuals were handcuffed when he came back to the front of the apartment. DT Mauro did not know who secured the individuals.

DT Mauro did not recall how many people were handcuffed and could provide no description of them, including gender. Neither DT Mauro or DT Zeffiro interacted with any of the civilians and DT Mauro did not recall hearing of any language barrier between the officers and the individuals. DT Mauro did not see any force used on any of the individuals. DT Mauro reviewed photographs of § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) but did not recognize any of them.

DT Mauro reviewed photographs number 7 and number 8 (encl. 9c) in the case file, which show bruising to § 87(2)(b)'s face and photograph number 9 (encl. 9d), which shows lacerations to § 87(2)(b)'s arm. DT Mauro did not see anything occur during this incident that could have caused these injuries. DT Mauro did not use any force on § 87(2)(b) whatsoever and did not see any other officer do this. DT Mauro did not punch § 87(2)(b) and did not see any other officer do this.

As soon as DT Mauro observed all the individuals in handcuffs, he left the apartment when the lights were still out. In total, DT Mauro was at the location for approximately five minutes. When DT Mauro left, the apartment had not been searched for drugs.

**Medical Records**

§ 87(2)(b) .. § 87(2)(b) sought treatment for his injuries at § 87(2)(b) (encl. 17a-17p). CT scans were conducted of § 87(2)(b)'s spine and head, the results of which were normal, and his left wrist and left shoulder were examined. Multiple and apparent bruises were visible all over § 87(2)(b) § 87(2)(b) face, but especially on his left cheek, and an abrasion was visible on his left wrist. § 87(2)(b) was released the same day with the instructions to return if symptoms worsened.

## **NYPD Documents**

### **Search Warrant**

The search warrant requested by DT Cohen provides the following information (encl. 18a). On § 87(2)(b) Justice § 87(2)(b) of the New York State Supreme Court issued a warrant based on evidence from DT Cohen for a “no-knock” search to be conducted of § 87(2)(b) along with any electronic equipment therein including cell phones and § 87(2)(b)s property for evidence of marihuana or its illegal trafficking.

### **SPRINT**

SPRINT job number § 87(2)(b) contains the following information (encl. 19a). At 9:36 p.m. a call was received by a complainant concerning a male who was suffering from a nose bleed and feeling dizzy. The complainant stated that his girlfriend’s father was punched in the face by officers. At 9:43 p.m., the complainant was connected to IAB Officer Carranza. At 9:45 p.m., EMS arrived at § 87(2)(b). At 11:45 p.m., a crime report (category: other-no arrest) was prepared detailing that a patient was removed to § 87(2)(b).

### **Arrests for Incident and Disposition**

§ 87(2)(a) 160.50  
[REDACTED]

### **Status of Civil Proceedings**

§ 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) by his mother and guardian, § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming personal injuries and violation of civil rights and seeking \$5,000,000.00 each as redress (encl. 21a-21i).

### **Civilians’ Criminal Histories**

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]

### **Civilians’ CCRB History**

This is the first CCRB complaint filed by § 87(2)(b) and involving § 87(2)(b) § 87(2)(b) § 87(2)(b) or § 87(2)(b) (encl. 2a-2c).

### **Subject Officers CCRB History**

- DT Cohen has been a member of the service for fourteen years and there are no substantiated CCRB allegations against him (encl. 1a).
- DT Pettito has been a member of the service for eleven years and there are no substantiated CCRB allegations against him (encl. 1b-1c).
- CPT Guimaraes has been a member of the service for eighteen years and there is one substantiated CCRB allegation against him in CCRB number 200714219 for entering and searching a residence, for which the Board recommended charges and the NYPD disposition was no disciplinary action (encl. 1d).

### **Conclusion**

### **Identification of Subject Officers**

- § 87(2)(g) [REDACTED]
- The subject officers in this case acknowledged their participation in this incident. § 87(2)(g) [REDACTED]
- § 87(2)(g) [REDACTED]

### **Allegations Not Pled**

- § 87(2)(g) [REDACTED]
- [REDACTED]

### **Investigative Findings and Recommendations**

#### **Allegation A: Abuse of Authority: DT Jason Cohen entered and searched § 87(2)(b) [REDACTED] in Brooklyn.**

It is undisputed that officers from the Narcotics Borough Brooklyn North entered and searched the apartment.

The investigation determined that upon DT Cohen's request, a "no-knock" warrant was granted by Justice § 87(2)(b) [REDACTED] of the New York State Supreme Court, which commanded an entry and search of the residence, including electronic devices therein and the property of § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED]  
§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]

#### **Allegation B: Force: DT Michael Pettito used physical force against § 87(2)(b) [REDACTED]**

#### **Allegation C: Force: CPT Fernando Guimaraes used physical force against § 87(2)(b) [REDACTED]**

§ 87(2)(b) [REDACTED] alleged that several masked officers (exact number and any physical descriptions not recalled) threw him to the floor and punched him three times in the face with a fist. § 87(2)(b) [REDACTED] said that at least five masked officers, for whom she could provide no physical description, surrounded § 87(2)(b) [REDACTED] and put him on the floor, but she could not see how this was done or what happened on the floor. § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] alleged that four or five male officers approached § 87(2)(b) [REDACTED] threw him to the ground and one (not recalled who) struck him three or four times. § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] alleged that three or four officers (one of whom was a black male) pulled § 87(2)(b) [REDACTED] off the couch and surrounded him, at which time he could not see what occurred.

DT Pettito said that when he went to apprehend § 87(2)(b) [REDACTED] he was in a

§ 87(2)(g)

§ 87(2)(g) did not know exactly how many and the number ranges from three to five in the testimonies of § 87(2)(b) and § 87(2)(b). Neither could provide any substantial physical descriptions to identify the remaining officers and § 87(2)(b) and § 87(2)(b) said the officers were wearing masks that covered their faces. § 87(2)(g)

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\_\_\_\_\_

\_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date